

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

WSOU INVESTMENTS, LLC d/b/a BRAZOS LICENSING & DEVELOPMENT,)	
)	
<i>Plaintiff,</i>)	Case No. 6:20-cv-00580-ADA
)	
v.)	Case No. 6:20-cv-00585-ADA
)	
GOOGLE LLC,)	JURY TRIAL DEMANDED
)	
<i>Defendant.</i>)	
)	

PRETRIAL CONFERENCE ORDER

On September 8, 2023, the Court held a Pretrial Conference in the above-captioned matters.

The Court's rulings are stated on the record at the hearing and as detailed below.

Case	Motion and ECF No.	Ruling
585	Google's Motion to Strike and Exclude Certain Opinions of Technical Expert Dr. Tamas Budavari (ECF No. 173)	<p>Denied as to Google's request to strike certain theories (Section II, Section III, and Section IV).</p> <p>Granted as to Dr. Budavari's opinions on technical comparability. Paragraphs 208 to 213 of Dr. Budavari's report are stricken. (Hr. Tr. at 23, 26-27).</p>
585	Brazos's <i>Daubert</i> Motion to Exclude Certain Damages Opinions in the Expert Report of W. Christopher Bakewell, or in the Alternative Strike Portions of the Expert Report of W. Christopher Bakewell (ECF No. 176)	<p>Denied as to Brazos's request to exclude opinions on the basis that Bakewell did not use a proper assumption of infringement.</p> <p>Granted only as to exclude those portions of Bakewell's report that rely upon the use of the AT&T agreement, Amazon agreement, and the Facebook agreement as comparable. All other portions of</p>

Case	Motion and ECF No.	Ruling
		Bakewell's report are unaffected by this ruling. ¹
585	Google's Motion for Summary Judgment of Non-Infringement of U.S. Patent No. 8,737,961 (ECF No. 171)	Denied.
580	Brazos's <i>Daubert</i> Motion to Exclude Certain Damages Opinions in the Expert Report of W. Christopher Bakewell, or in the Alternative Strike Portions of the Expert Report of W. Christopher Bakewell (ECF No. 182)	Denied as to Brazos's request to exclude opinions on the basis that Bakewell did not use a proper assumption of infringement. Granted only as to exclude those portions of Bakewell's report that rely upon the use of the AT&T agreement, Amazon agreement, and the Facebook agreement as comparable. All other portions of Bakewell's report are unaffected by this ruling.
585	Google's Motion to Exclude Testimony of Plaintiff's Damages Expert Justin R. Blok (ECF No. 175)	Denied.
580	Google's Motion for Partial Summary Judgment of Non-Infringement (ECF No. 180)	Denied.
580	Google's Motion to Exclude Opinions and Testimony of Plaintiff's Damages Expert Justin R. Blok (ECF No. 179)	Granted.
585 and 580	Google's Motions <i>in Limine</i> (585 Case, ECF No. 206; 580 Case, ECF No. 214): Google's MIL No. 1: Plaintiff And Its Experts Should Be Precluded From Testifying About Or Referring To Licensing Negotiations Given That Plaintiff Denied Google Discovery Of Such Information.	MIL No. 1 is granted-in-part. Plaintiff is limited to putting on testimony with regard to negotiations that were disclosed during discovery. ² . MIL No. 2 is dismissed pursuant to the parties' agreement that Brazos will not present Mr. Ozer Teitelbaum at the trials in the 585 and 580 cases and Brazos will not introduce any testimony, evidence, or argument about common licensing

¹ Hr. Tr. at 66.


² Hr. Tr. at 126:2-8.

Case	Motion and ECF No.	Ruling
	<p>Google's MIL No. 2: Plaintiff, Its Experts, And Mr. Teitelbaum (Who Never Worked At Nokia) Should Be Precluded From Testifying About Nokia's And Alcatel-Lucent's Licensing Practices.</p> <p>Google's MIL No. 3: Any Reference To Purported Deficiencies In Google's Document Production Or Insinuation Of Selectively Produced Documents Should Be Precluded.</p> <p>Google's MIL No. 4: Plaintiff And Its Experts Should Be Precluded From Making Any Argument Or Reference To Issues Not Addressed In Plaintiff's Expert Reports, Including Products No Longer Accused, Secondary Considerations, Doctrine of Equivalents, And Hypothetical Damages Figures.</p> <p>Google's MIL No. 5: Plaintiff And Its Experts Should Be Precluded From Making Any Reference To Or Arguments About Google's Financials and Revenue Not Used In Plaintiff's Damages Calculations, Such As Overall Google Search Ad Revenue</p>	<p>practices or licensing practices of Nokia or Alcatel Lucent that relies on Mr. Teitelbaum's statements, conversations, testimony, or any evidence produced by Mr. Teitelbaum.</p> <p>MIL No. 3 is granted.</p> <p>MIL No. 4 is granted.</p> <p>MIL No. 5 is granted.</p>
585 and 580	<p>Brazos's Motions <i>in Limine</i> (585 Case, ECF No. 205; 580 Case, ECF No. 213):</p> <p>Brazos MIL No. 1: To preclude Google from presenting the deposition testimony of its own corporate employees during its case in chief</p> <p>Brazos MIL No. 2: To preclude evidence, testimony, or argument regarding the presence or absence at trial of any of the inventors of the asserted patents or Brazos's corporate witnesses.</p> <p>Brazos MIL No. 3: To preclude evidence, testimony, or argument suggesting a party's corporate representative at trial is obligated</p>	<p>MIL No. 1 is denied.</p> <p>MIL No. 2 is granted.</p> <p>MIL No. 3 is denied.</p>

Case	Motion and ECF No.	Ruling
	to prepare on any particular topic or is charged with the knowledge of others.	
580	Brazos's Motion for Summary Judgment Concerning Google's Affirmative Defenses (ECF No. 177)	Denied.
580	Google's Motion to Dismiss for Failure to State a Claim Under FRCP 12(B)(6) (ECF No. 18)	Denied.
580	Google's Motion for Partial Summary Judgment of Non-infringement (ECF No. 160)	Denied.
580	Google's Motion for Summary Judgment of Indefiniteness (ECF No. 172)	Denied.
580	Google's Motion for Summary Judgment of Patent Ineligibility (ECF No. 174)	Denied under <i>Alice</i> Step 1.
580	Google's Motion to Exclude Testimony of WSOU Technical Expert Dr. Tibor Kozek (ECF No. 176)	Denied.
585	Brazos's Motion for Summary Judgment Concerning Google's Affirmative Defenses (ECF No. 167)	Denied.
585	Google's Motion to Dismiss for Failure to State a Claim Under FRCP 12(B)(6) (ECF No. 18)	Denied.
585	Google's Motion for Partial Summary Judgment of Under 35 USC Section 287 (ECF No. 160)	Granted.
585	Google's Motion for Summary Judgment of Invalidity of U.S. Patent No. 8,737,961 (ECF No. 168)	Denied.

IT IS SO ORDERED.

SIGNED: September 21, 2023


HON. ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE

